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January 29, 2020

District Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: 1:19-cv-10686-KPF
Cosgrove v. Oregon Chai, Inc.

Dear District Judge Failla:

This office, with co-counsel Reese LLP, represents the plaintiff. On Monday, January 27, 2020, defendant served and filed a letter seeking a pre-motion conference to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6). In accordance with your Honor's Individual Rules of Practice in Civil Cases, ("Individual Rules"), plaintiff is required to serve and file a letter response within three business days.

Consistent with the rules and practices of the Court, which typically consider service of a defendant's pre-motion letter timely service under Rule 12 if served within the time required by the Rule, plaintiff will "amend its pleading once as a matter of course" within 21 days "after service of a motion under Rule 12(b)." Fed. R. Civ. P. 15(a)(1)(B); *Martinez v. LVNV Funding, LLC*, No. 14-cv-00677, 2016 WL 5719718, at *3 (E.D.N.Y. Sept. 30, 2016); *M.E.S., Inc. v. Liberty Mut. Sur. Group.*, No. 10-cv-0798, 2014 WL 46622 (E.D.N.Y. Jan. 6, 2014), *2 (noting that a plaintiff's amendment as of right in response to defendant's pre-motion letter seeking dismissal "allow[s] for the more efficient use of the Court's time and resources because the Court need only meet with the Parties once...and the need for the motion may be obviated if the amended pleading deals with Defendants' concerns.").

Plaintiff will file an amended complaint on or before Monday, February 17, 2020, 21 days after defendant's letter-motion was served. Fed. R. Civ. P. 6(a)(1)(A) (excluding "the day of the event that triggers the period"); 6(a)(1)(C) (where the last day of the period is "a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday."); Fed. R. Civ. P. 15(a)(1)(B). Thank you.

Respectfully submitted,

/s/Spencer Sheehan
Spencer Sheehan

Certificate of Service

I certify that on January 29, 2020, I served or emailed the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/ECF	First-Class Mail	Email
Defendant's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Plaintiff's Counsel</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

/s/ Spencer Sheehan
Spencer Sheehan